

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**RAPHAEL BLACK,**

**Petitioner,**

**-against-**

**SUPERINTENDENT THOMAS GRIFFIN,**

**Respondent.**  
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**15-CV-8112 (ALC)**

**OPINION & ORDER  
ADOPTING REPORT AND  
RECOMMENDATION**

**ANDREW L. CARTER, JR., District Judge:**

Mr. Raphael Black (hereinafter, “Petitioner” or “Mr. Black”) filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on October 14, 2015. ECF No. 2. Respondent opposed the Petition on October 17, 2016. ECF No. 21. On March 27, 2017, this matter was referred to Magistrate Judge Debra C. Freeman for a Report and Recommendation (hereinafter, “Report”). ECF No. 31. On January 14, 2019, Judge Freeman filed a Report and recommended that Mr. Black’s Petition be dismissed in its entirety. ECF No. 38 (“Report”). Mr. Black filed no objections to Judge Freeman’s Report.

**STANDARD OF REVIEW**

A district judge may designate a magistrate judge to submit proposed findings of fact and recommendations for the disposition of a case. 28 U.S.C. §§ 636(b)(1)(A)-(C). Following the filing of a report and recommendation, “any party may serve and file written objections to such proposed findings and recommendations” within fourteen (14) days of being served with a copy of the report and recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(2). A district judge must undertake a *de novo* review of any portion of a magistrate judge’s report that has been properly objected to. Fed. R. Civ. P. 72(b)(3). In the absence of objections, however, the

Second Circuit has “adopted the rule that failure to object timely to a magistrate judge’s report may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.” *Graves v. Correctional Medical Service*, 667 Fed.Appx. 18, 19 (2d Cir. 2016) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)). In reviewing a report and recommendation free from objections, “the [district] court reviews the report for clear error.” *Wilds v. United Parcel Service, Inc.*, 262 F.Supp.2d 163, 169-70 (S.D.N.Y. 2003); see *Patterson v. Rock*, 2012 WL 3245489, \*1 (S.D.N.Y. Aug. 3, 2012).

## DISCUSSION

In the Report, Judge Freeman thoroughly outlined the requirements of 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). Report pp. 64-65. Judge Freeman stated that Mr. Black had fourteen (14) days from the date of service to file any objections, and that failure to do so would “result in a waiver of objections and will preclude appellate review.” *Id.* Mr. Black filed no objections to the Report and Recommendation. See ECF. Thus, Mr. Black has waived any right to further appellate review.

Despite Mr. Black’s waiver, this Court nonetheless reviewed both the Petition and Judge Freeman’s Report. The Report is well-reasoned and carefully considered. Among other things, Judge Freeman addressed Petitioner’s claims pertaining to ineffective assistance of trial counsel, prosecutorial misconduct, judicial misconduct and bias, denial of Confrontation Clause rights, and legal insufficiency of the evidence. See Report. Upon review, Judge Freeman’s analysis is void of clear error. See *Wilds*, 262 F.Supp.2d at 169-70.

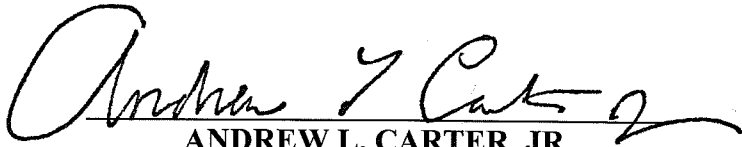
As such, it is hereby **ORDERED** that Magistrate Judge Freeman’s Report and Recommendation, filed on January 14, 2019, is **ADOPTED** in its entirety. For the reasons stated

therein, Petitioner's Petition for a Writ of Habeas Corpus is hereby **DENIED**. Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(1)(A), thus the Court will not issue a certificate of appealability. *See* 28 U.S.C. § 2253(c)(2).

The Clerk of Court is respectfully directed to enter judgment in favor of Respondent.

**SO ORDERED.**

**Dated:**           **June 20, 2019**  
                      **New York, New York**

  
**ANDREW L. CARTER, JR.**  
**United States District Judge**